

Chair
Cabinet Economic Growth and Infrastructure Committee

Consultation proposal on potential relocation of salmon farms in the Marlborough Sounds

Purpose

1. This paper seeks your agreement to release a consultation document about proposed regulations to enable relocation of up to six salmon farms in the Marlborough Sounds to address environmental, social, cultural and economic objectives.
2. I have the power to recommend regulations if they are necessary or desirable for the management of aquaculture activities (in this case salmon farming) in accordance with the Government's policy for aquaculture in the coastal marine area. The public and iwi authorities must have time and opportunity to comment on the proposed regulations, and the attached consultation document (along with other information) will enable them to be informed and participate in a meaningful way.

Executive Summary

3. To improve the environmental, social and cultural outcomes of salmon farming without sacrificing economic returns, I propose consulting on proposed regulations to amend the Marlborough Sounds Resource Management Plan to enable relocation of up to six salmon farm sites in the Marlborough Sounds.
4. At their existing sites, some salmon farms have significant adverse effects on the benthic environment (seabed). Addressing the adverse effects at those sites would have negative economic impacts. Relocation would allow the adverse effects on the benthic environment to be addressed while providing for social and cultural benefits and maintaining or increasing economic benefits.
5. The proposed regulations I intend to consult on would amend the Marlborough Sounds Resource Management Plan to allow aquaculture in new areas, some of which currently prohibit new aquaculture. At the proposed relocation sites, New Zealand King Salmon Company Limited could farm consistently with environmental standards for benthic quality agreed in 2014 while remaining commercially viable, which is not possible at the existing sites. The regulations would provide rules to manage the effects of salmon farming. Resource consents would still be required, but the council's discretion to refuse consents and impose conditions would be limited to specific matters, to streamline consenting.

6. Under the proposal there would be no increase in the total surface structure area used for salmon farming in the Marlborough Sounds. Applicants for a relocation site would have to surrender the consents for an existing salmon farm. King Salmon, which initiated the proposal, is the only salmon farming company operating in the Marlborough Sounds and is therefore the only direct beneficiary of the relocation proposal.
7. A working group, comprising nominated individuals from local and central government, iwi, key community and interest groups and the aquaculture industry, considered options for meeting the new environmental standards for benthic quality, including relocation. I have considered their recommendations, which included eliminating 3 sites from further consideration, proceeding to consultation on 3 potential sites, and divergent views on 3 further sites. I have decided to proceed with public consultation on 6 potential relocation sites.
8. Consultation with the public and iwi authorities will enable the potential effects, risks and issues associated with establishing salmon farms at the proposed sites to be fully explored. Previous applications for salmon farms have been contentious and divided the community. There is a risk of public opposition to introducing salmon farms in new areas. Issues with introducing salmon farms to the sites have been identified, and expert reports have been prepared and discussed with the Working Group. This has helped inform the sites which would be consulted on.
9. Relocation would be consistent with the Business Growth Agenda aim to increase the productivity of natural resources while reducing environmental effects. It would enable further growth of the industry and create jobs, and reduce the benthic effects of salmon farming.
10. Because there is only one salmon farming company in the Marlborough Sounds, the proposal could be seen as favouring that company. However, the focus is on improving environmental outcomes without sacrificing economic returns. The proposal could be seen as overriding local government and reducing the opportunity for public participation, but I have designed a consultation process that provides an opportunity to be more inclusive and less adversarial but still ensures a robust and independent assessment of effects. The recently elected Marlborough District Council has been briefed on the proposal and is generally supportive of the process.
11. To improve public confidence in the process and reduce legal risk an independent hearings panel will form part of consultation. The panel will prepare a report and recommendations. The panel's report, together with final advice from agencies, will form the basis of my decision on whether to recommend the use of regulations to enable relocation.

12. There are cost implications for aquaculture treaty settlement of up to [REDACTED] by way of top up because new space is being created earlier than forecast. These costs will be covered within existing baselines. Officials have already been engaging with iwi and further consultation with iwi authorities will continue. This will ensure that iwi concerns are identified and influence the choice of suitable sites.
13. I intend to initiate consultation on the relocation proposal, and the use of regulations, and I seek the Committee's agreement to use the attached consultation material to enable informed comment on the proposed regulations. Consultation would be carried out in January/February to March/April 2017. Following consultation I would use the information collected and undertake further evaluation, before deciding whether to proceed.

Background

14. Salmon farming leads to deposition of fish faeces and waste feed onto the seabed, causing nutrient enrichment. The degree of enrichment depends on factors relating to the operation of the farm, and factors relating to the location of the farm such as water depth and strength of the current flow. Farming in shallower, lower-flow areas can result in greater enrichment.
15. *Best Management Practice Guidelines for Salmon Farms in the Marlborough Sounds: Benthic environmental quality standards and monitoring protocol (the Benthic Guidelines)* were finalised in 2014.¹ Developed with the community, science experts and industry, the Benthic Guidelines provide clear and consistent requirements for seabed monitoring and management.
16. Six of New Zealand King Salmon Company Limited's (King Salmon), 11 consented sites are in locations with lower than optimal current flow. Consents for all of the sites expire between 2021 and 2024. Implementing the Benthic Guidelines at any of the existing sites will require reducing feed and stocking levels to decrease the discharge of wastes. This is expected to significantly reduce productivity and commercial viability. In contrast, if the farms were relocated to more suitable sites, the standards in the Benthic Guidelines could be met at increased levels of production.
17. King Salmon is the only company currently farming salmon in the Marlborough Sounds.² This proposal was initiated in February 2015 after King Salmon approached Government and Marlborough District Council expressing a desire to relocate farms.

¹ There are also operational guidelines. Development of guidelines for water quality are yet to be developed, however the proposed regulations provide for this.

² There are 10 other consented marine farms in Marlborough with salmon listed as an authorised species able to be farmed under the coastal permits. One site, operated by Ngai Tahu Seafood Resources Ltd, currently farms snapper in Beatrix Bay. The nine remaining sites have not farmed salmon (or other finfish) within the last 20 years, and do not hold current valid discharge consents required to undertake salmon farming activities.

18. In March 2015 Natural Resources Sector Business Growth Agenda (**BGA**) Ministers directed MPI and Ministry for the Environment (**MfE**) to investigate the potential use of the Ministerial regulation-making power (ss360A-C RMA) to enable salmon growth in the Marlborough Sounds. In May 2016 BGA Ministers agreed that MPI, MfE and the Department of Conservation (**DOC**) establish a working group for targeted stakeholder engagement.
19. Between June and October 2016 the Marlborough Salmon Working Group (**Working Group**) assessed options, including relocation, for implementing the Benthic Guidelines at the six lower flow salmon farm sites.

Comment

The problem: meeting the Benthic Guidelines without limiting production

20. PwC estimates³ that current production at the four active⁴ existing lower flow sites results in a GDP value of \$10 million and employment of 105 full-time equivalents (FTEs). Implementing the Benthic Guidelines at these sites would require destocking and fallowing for two to five years to allow the seabed to recover before recommencing production at lower stocking levels. Over the fallowing period \$10 million GDP per annum and 105 FTEs would be lost.
21. There is scientific uncertainty about the exact stocking level that will meet the Benthic Guidelines following the fallowing period, hence GDP and FTE implications under both minimum and maximum levels have been estimated.
22. Under minimum stocking levels all four farms are commercially unviable, resulting in an ongoing loss of \$10 million in GDP and 105 FTEs. Under the maximum stocking levels three of the four sites (Waihinu Bay, Forsyth Bay, and Otanerau) would remain commercially viable, albeit at production levels lower than current production. PwC estimates that the production at these three sites would result in \$6.4 million added to GDP per year and 67 FTEs in employment. Compared to the present situation, this amounts to a loss of \$3.6 million per year in GDP and a loss of 38 FTEs in employment.
23. In contrast, PwC estimates that relocating all six of the sites could add up to \$49 million annually to regional GDP and 511 FTEs. Based on NZIER research, this would generate an additional \$125 million in annual export revenue. Economic gains would occur over about 10 to 15 years as the sites are relocated and then developed in stages.⁵

³ PwC (November, 2016), *Marlborough Salmon Relocation – Economic Impact Assessment*. [This report has been peer reviewed by Ernst & Young].

⁴ Note, the two Crail Bay sites, while consented as salmon farms, have been inactive since 2011 and are not included in this estimate. Research shows that they will not be commercially viable under the Benthic Guidelines. Given they have not been used recently they are the lowest priority for relocation.

⁵ NZIER, (November, 2014), *The economic contribution of finfish aquaculture expansion*.

24. In 2011 King Salmon applied for nine new salmon farm sites in the Marlborough Sounds. Following the Board of Inquiry and subsequent appeal process King Salmon was granted consents for three new sites in 2013. Production from the three new salmon farms will help to offset the reduction of production at lower flow sites under the Benthic Guidelines. However, there will be no significant increase in the total salmon production from the Marlborough Sounds.
25. The Board of Inquiry process divided the community. It showed the public is reluctant to accept new space for salmon farming in the Marlborough Sounds. This proposal acknowledges the need to use coastal space efficiently. Under the proposal there would be no overall increase in the amount of surface space occupied by salmon farm structures. It provides for industry growth through more efficient use of space rather than additional space.
26. Government has an opportunity to take action to enable growth of the salmon industry in the Marlborough Sounds while reducing effects on the benthic environment and ensuring there is no increase in the overall surface space of salmon farms. Salmon farming is important to the regional economy in Marlborough and Nelson and to deliver on the Government policy on growth of aquaculture, but it is necessary to reduce its adverse effects on the benthic environment. If relocation is not enabled, it is likely that there will be a reduction in the productivity of existing farms and the employment opportunities they provide.

Government Policy for Aquaculture

27. The Government's policy for aquaculture is set out in the following documents: the New Zealand Coastal Policy Statement (2010) (**NZCPS**),⁶ the Aquaculture Strategy (2012),⁷ and the Natural Resource Business Growth Agenda (2015).⁸

⁶ New Zealand Coastal Policy Statement 2010. Department of Conservation.

⁷ Government's Aquaculture Strategy and Five-Year Action Plan to Support Aquaculture. 2012.

<http://www.fish.govt.nz/NR/rdonlyres/20A0ED89-A20B-4975-9E63-6B302187840D/0/AQUAStrat5yrplan2012.pdf>

⁸ Building Natural Resources Chapter 4: Business Growth Agenda, Towards 2025. Ministry of Business, Growth and Employment, 2015 <http://www.mbie.govt.nz/info-services/business/business-growth-agenda/pdf-and-image-library/towards-2025/BGA%20Natural%20Resources%20Chapter.pdf>.

28. Based on these documents I invite the Committee to confirm that the Government's policy for aquaculture is:
- i. To recognise the significant existing and potential contribution of aquaculture to the social, economic and cultural well-being of people and communities by:
 - a. Including in regional policy statements and regional coastal plans provision for aquaculture activities in appropriate places in the coastal environment, recognising that relevant considerations may include:
 - i. The need for high water quality for aquaculture activities; and
 - ii. The need for land-based facilities associated with marine farming;
 - b. Taking account of the social and economic benefits of aquaculture, including any available assessments of national and regional economic benefits; and
 - c. Ensuring that development in the coastal environment does not make water quality unfit for aquaculture activities in areas approved for the purpose;
 - ii. To support well-planned and sustainable aquaculture growth;
 - iii. To improve productivity while reducing environmental impact; and
 - iv. To support aquaculture development regionally.
29. Aquaculture policy cannot be seen in isolation. It forms part of the Government's broader policy for use of the coastal marine area as articulated in the NZCPS. The Resource Management Act requires any regulations to continue to give effect to the NZCPS and this will be a critical matter for further assessment following consultation.

Proposal

30. I intend to initiate public consultation on proposed regulations to amend the Marlborough Sounds Resource Management Plan to enable relocation of up to 6 salmon farms in the Marlborough Sounds. The relocation would be achieved without any total increase in surface structure area of currently consented salmon farms, noting that two of the lower flow sites are not currently operational and would be the lowest priority for relocation.
31. Environmental Impact Assessments, commissioned by MPI, have been completed for the potential relocation sites. The exact swap proposal will not be finalised until feedback on the proposal has been considered. Appendices 1, 2 & 3 show the existing lower flow farms and the potential relocation sites, which are within Queen Charlotte Sound and Pelorus Sound. Photographs of salmon farm structures are included in Appendix 4.

32. The RIS has identified three RMA options to enable relocation. The two most viable options are:
- a. Government using the aquaculture regulation-making power to change the Marlborough Sounds Resource Management Plan, followed by King Salmon applying for resource consents.
 - b. King Salmon applying to the Environmental Protection Authority (EPA) for a concurrent plan change and consents.
33. At this stage, I consider it best to consult on proposed regulations. While this does result in the Crown assuming the risk and costs of the process, I think this is appropriate given:
- a. Relocation presents an opportunity to increase GDP and employment and improve environmental performance without increasing surface space
 - b. If relocation is not enabled there are threats to the commercial viability of existing farms and the economic and employment opportunities provided.
 - c. Moving farms to higher flow sites would improve biosecurity management and climate change resilience to warming sea temperatures. MPI will proactively act to improve biosecurity management.
 - d. The Government's policy for aquaculture as set out in this paper
 - e. The importance of salmon farming to the regional economy of Nelson and Marlborough
 - f. The proposal is consistent with the BGA aim to increase the productivity of natural resources while reducing environmental effects.
 - g. A preliminary assessment of the new sites indicates that they are appropriate for aquaculture and potential adverse effects can be managed through plan rules and conditions on resource consents.
34. Under this process, the Crown would bear the costs of the plan change and judicial review [\$750,000 plus contingency of up to \$250,000 for potential judicial review]. King Salmon would bear the costs and risks of getting resource consents [\$250,000 for consents with contingency of \$200,000-\$750,000 for appeals], and has already paid \$1 million for assessments of environmental effects. Under the private plan change request, King Salmon would bear most of costs, but they would be much greater [\$4-\$5 million plus \$400,000 contingency for appeals]. It is likely the Crown would participate and it would bear its own costs [approx. \$150,000].
35. The proposed regulations would amend the Marlborough Sounds Resource Management Plan to allow aquaculture at the relocation sites, and establish a framework of rules to manage adverse effects of salmon farming at those sites. The intent is to deal with the environmental issues primarily at the plan stage. At the consent stage council discretion and public notification would be limited, and resource consents would be restricted discretionary. Further detail on the proposed regulations is provided in Appendix 5.

36. As part of the resource consent process there would be an assessment by MPI under the Fisheries Act as to whether salmon farming would have any Undue Adverse Effects on fishing.⁹ If an aquaculture decision determines there is an undue adverse effect on recreational or customary fishing, consents would be declined.
37. Preliminary consultation to date indicates that Marlborough District Council support government intervention rather than a council-led plan change because of the lower cost to council and the local community and the shorter timeframes. The Council, Department of Conservation and Ministry for the Environment support the proposal going out to public consultation, provided two consented sites at Crail Bay, which have not been used since 2011, are indicated as the lowest priority for relocation.

Role of New Zealand King Salmon

38. This proposal was initiated in February 2015 after King Salmon expressed a desire to relocate farms to achieve better environmental and economic outcomes. King Salmon is the only company farming salmon in the Marlborough Sounds. There is a risk of public perception of the government acting for one company, while the costs of the intervention fall on the Crown and not King Salmon. The proposal aims to improve environmental outcomes without sacrificing economic returns, and this aim would be the same however many companies were farming salmon in the Marlborough Sounds.
39. There is also a risk that the environmental impact assessments that have been commissioned to date are perceived as not being credible as they have been paid for by King Salmon. To ensure impartiality and credibility of the assessments, MPI and King Salmon entered into a Heads of Agreement in October 2015 whereby MPI procured and managed the assessments, and King Salmon paid all costs.
40. The Heads of Agreement required that MPI consult King Salmon and include 2 King Salmon representatives on the researcher selection panel. King Salmon provided operational information to inform the Assessments. MPI was required to consult King Salmon on each draft research report. However, King Salmon was prohibited from directly contacting the researchers without MPI's approval.
41. The Heads of Agreement included the express acknowledgement that suitable sites may not be identified.

⁹ The purpose of the Undue Adverse Effects test is to determine whether a proposed marine farm would unduly affect recreational, customary or commercial fishing for specific fish stocks. A proposed marine farm cannot proceed if it would have 'undue' adverse effects on recreational or customary fishing, or commercial fishing for non-quota management system (non-QMS) stocks. When commercial fishing is unduly affected, compensation can be paid to affected quota owners. The outcome of the test cannot be predetermined, as it must consider all available information on fishing at the time of the assessment, including from public consultation.

Benefits and costs of relocation proposal

42. A preliminary assessment of the environmental, social, cultural and economic benefits and costs of the proposal are set out below. Iwi views about cultural and aquaculture settlement implications are described later in this paper.

Table 1. Summary of Benefits and Costs of the relocation proposal

<i>Benefits</i>	<i>Costs</i>
<p><u><i>Environmental</i></u> Reduced overall seafloor effects over time and nutrient enrichment through application of the Benthic Guidelines. Farming at higher flow sites will result in improved fish health. Healthier fish are more resilient to disease and water temperature increases.</p>	<p><u><i>Environmental</i></u> Potential effects on endangered King Shags. Potential increase in cumulative effects of aquaculture on water quality from increased feed discharge from salmon farming.</p>
<p><u><i>Social</i></u> Reduced overall amenity effects (e.g. visual, noise and odour effects) on occupants of residential property and communities by moving farms further away from people and high-use areas and by using more modern, less visually intrusive infrastructure at some sites.¹⁰ Enables discussion with the community about better management of salmon farming. The Benthic Guidelines were developed with community input to address an ongoing concern. Their implementation will provide greater public assurance of effective management of salmon farms by providing verifiable evidence of compliance with environmental standards. Employment opportunities (estimated to grow by 500 FTEs if the 6 relocation sites are fully developed, plus farm building jobs spread over a number of years). This gain will emerge over 10-15 years as farms develop.³</p>	<p><u><i>Social</i></u> Reduction in amenity and recreational values at relocation sites. Community concerns about the proposal and process. Landscape: Two sites are within areas identified as 'outstanding natural features and landscapes' in the proposed Marlborough Environment Plan. [See risk section] Cumulative effects: Potential increase in the cumulative impact of aquaculture activities at relocation sites.</p>

¹⁰ Farms could use less intrusive infrastructure at their existing sites but it is not required by their existing resource consents.

Benefits	Costs
<p><u>Economic</u></p> <p>PwC estimates that 100t of new salmon production adds \$450k of value to the Nelson Marlborough region.</p> <p>Net regional value added will depend on which relocation sites are finally agreed [which will be informed by consultation] since they have differing production potential under the Benthic Guidelines. If production increases by 6000t (doubling current production in the Sounds), it is estimated that approximately \$27.3m would be added to the regional economy annually.</p> <p>The net gain ranges from \$0 (if relocated sites are of equal productivity) to approximately \$39m¹¹ (if all 6 proposed sites are fully developed).</p> <p>One-off investment in developing each new farm at a relocation site is estimated to add \$3.2m to the regional economy.</p>	<p><u>Economic</u></p> <p>King Salmon costs for Environmental Impact Assessments at the potential sites – estimated total cost \$1m. However this information could be used if King Salmon chose to proceed with a private plan change.</p> <p>Consenting costs (time and money) for relocation sites, including:</p> <ul style="list-style-type: none"> (i) Council fees plus expert advice for a restricted discretionary activity: \$50k - \$75k per farm (ii) Costs to public of participating in consent process (limited to directly affected persons by plan change provisions). <p>Infrastructure removal costs at surrendered sites.</p>
<p><u>Fiscal</u></p> <p>Tax gains associated with any net increase in value of salmon production.</p>	<p><u>Fiscal</u></p> <p>The Crown will bear the costs of the plan change, estimated to be \$500k-\$1m. This includes public consultation and the regulatory change process, and potential costs of judicial review proceedings.</p> <p>Aquaculture Settlement obligations, estimated to be a maximum of [REDACTED] funded from within the Aquaculture Settlements budget.</p>
<p><u>Cultural</u></p> <p>Discussed below.</p>	<p><u>Cultural</u></p> <p>Discussed below.</p>

Community engagement: Marlborough Salmon Working Group

43. In mid-2016 MPI, supported by the Marlborough District Council, established the Marlborough Salmon Working Group. The Working Group considered options to implement the Benthic Guidelines so that the best environmental, social, cultural and economic outcomes for salmon farming could be realised. The Working Group had nominated individuals from MPI, Marlborough District Council, DOC, Te Tau Ihu iwi, Aquaculture New Zealand, Marine Farming Association, New Zealand King Salmon, Guardians of the Sounds, Sounds Advisory Group, Kenepuru & Central Sounds Residents Association.

¹¹ The maximum value added is estimated to be \$49m once new farms are fully productive, whereas the value of production foregone at the lower flow sites without implementing the Benthic Guidelines is \$10m.

44. The Working Group concluded that reducing stocking density to comply with the Benthic Guidelines at existing sites and relocation had the most merit out of the options considered, taking into account economic viability, logistics and timeframes for technology to be developed. I have considered the Working Group's recommendations, and have decided to proceed to consulting the public and iwi authorities on 6 potential relocation sites.

Iwi/Māori perspective


45. Eight iwi (Te Tau Ihu iwi) are recognised authorities with interest in the Marlborough Sounds area. These are: Te Ātiawa, Ngāti Rarua, Ngāti Kōata, Ngāti Tama, Ngāti Apa, Ngāti Toa, Ngāti Kuia and Rangitāne.

Cultural concerns

46. A cultural impact assessment has been prepared and Ngati Koata has provided its own cultural impact assessment. There is concern that relocation undermines ability for iwi to undertake kaitiakitanga and mahinga kai and manaaki tangata practices, and there is also specific concern that one of the potential sites is close to a wāhi tapu and to the place of Te Ana O Kaikaiawaro (a taniwha). Ngāti Koata would like to see a reduction in the number of marine farms generally.
47. Success of the proposal relies on iwi support. MPI has had preliminary engagement with Top of the South iwi through Te Tau Ihu Forum and the Marlborough Salmon Working Group. In-depth engagement with iwi will take place alongside consultation with the public. I intend to consult further with iwi authorities to ensure that iwi concerns with any of the sites are identified and influence the decision on which, if any, sites are to proceed. I will work with iwi authorities to look to explore ways to mitigate any concerns.

Aquaculture settlement

48. Under a regional agreement signed by Ministers and iwi in mid-2015,
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49. The relocation proposal would trigger a top-up of the existing cash settlement because new space will be created earlier than expected.¹² This top-up could be delivered by bringing forward the reconciliation scheduled for 2020. The estimated cost is up to \$ [REDACTED] if all 6 relocation sites are implemented, which would fall within the existing Settlements budget funded from the Vote Primary Industries allocation, authorised by Cabinet in 2012 [CAB Min (12) 13/3(26) refers]. Further advice on delivering settlement obligations would be provided following consultation, if I choose to proceed.
50. Some of the proposed relocation sites were originally identified as part of the iwi settlement process, and assessed as potential new space. However, using the ss360A-C regulation making power to create new space in the Marlborough Sounds was not considered appropriate at the time. Relocating existing sites is considered a more appropriate use of the regulation-making power in the Marlborough Sounds due to constraints on opening new space.
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Next steps

Use of sections 360A-C regulations

53. Consultation with the public and iwi authorities is a prerequisite to using my regulation-making power. Other evaluation requirements [detailed in Appendix 6] must also be met. I have received preliminary advice from officials that these evaluation requirements can be met, and I am satisfied that it is appropriate to consult with the public and iwi authorities on these issues.
54. I will consider whether to progress regulations under ss360A-C RMA after considering the outcomes of the consultation and evaluation processes, including a cost benefit analysis under s32 of the Resource Management Act.

Timeframe for progressing Ministerial regulations

55. Under the proposed process a plan change to enabled relocation could be achieved within 10 months from initiating consultation with the public and iwi authorities. King Salmon would then apply for resource consents, which is expected to take an additional 5 months.

¹² While the proposal results in no net increase in surface structure area used for salmon farming, issuing new resource consents at the relocation sites meets the definition of 'new space' under the Māori Commercial Aquaculture Claims Settlement Act 2004.

Activity	When
Consultation with the public and iwi authorities	16 January/February – late March/ April (submissions close Tuesday 14 March and public hearings are 2-3 weeks after that)
Preparing advice	April-May 2017
EGI & Cabinet	July 2017
PCO drafting (and development of LEG paper)	July – September 2017
LEG committee and Cabinet	Late October 2017 – post election

Process for consultation with the public and iwi authorities

56. As required under s360B(3)(b) I have established a process that I consider gives the public and iwi authorities adequate time and opportunity to comment on the proposed regulations and requires a report and recommendation to be prepared on the comments.
57. Key elements of the process are:
- a. Notification of the proposed regulations
 - b. An 11-week submission period from 16 January to 31 March, including:
 - i. 8 weeks for written submissions [close March 14]
 - ii. 1 week for panel and public to prepare for hearings
 - iii. Verbal submissions in weeks 10-11 [March 20-31]
 - c. Hui with individual iwi authorities and Te Tau Ihu Forum
 - d. Preparation of a cultural impact assessment
 - e. An independent panel consisting of three resource management experts forms part of the consultation process. The panel will attend targeted meetings, hold hearings on written submissions and prepare a report and recommendations. Using a panel will improve public confidence in the process and outcomes and reduce legal risk and perceived predetermination of outcome. The panel report, together with final advice from agencies on the proposal and statutory requirements, will form the basis of my decision on whether to recommend the use of regulations to enable relocation.
 - f. Expert workshops on key issues. The workshop outcomes would be taken into account by the independent panel.

58. The consultation document, including proposed regulations, is attached for the Committee's approval. This document contains all the elements of the proposal, however minor technical changes may be necessary. In addition, a recent application has been made to extend an existing mussel farm partially into one of the proposed new salmon sites (Blowhole Point South). Technical work is underway to assess the effects of moving the boundaries of Blowhole Point South marginally seaward to remove the overlap. I suggest that I be authorised to approve any updates to the consultation document, based on further technical work and peer review, prior to release of the document in early January.

Risks

59. Overall there are four main risks associated with this proposal: the risk of public opposition to introducing salmon farms to new sites, the perception the proposal supports the interests of one company, public opposition to overriding local government, and the Crown's relationship with iwi. These in turn may lead to judicial review proceedings. Risks are detailed in the table below.

Table 2. Risks, comment and mitigations of relocation proposal

Risk	Risk comment and mitigation	Risk level
Opposition to specific relocation sites and community opposition to salmon farming growth and central government intervening in the regional planning process	<ul style="list-style-type: none"> While the proposal may deliver generally improved environmental outcomes, there will be individuals and groups particularly affected by the proposal who are strongly opposed to introducing salmon farms to new areas. These views are expected to come through in public consultation. MPI convened a Working Group to identify principles and select sites for consultation. Relinquishing existing lower flow sites is expected to have local community support particular where they are currently in high use areas and close to residential properties. Extensive investigations on the effects at potential sites has been undertaken, and will be publicly available. Consultation provides an opportunity for the community to participate in the process and raise their concerns 	H
Negative perception of an intervention that supports a particular company (King Salmon)	<ul style="list-style-type: none"> This proposal is about implementing better environmental management of salmon farms without compromising commercial viability and King Salmon is the only operator in the Marlborough Sounds. 	M
Relocation sites (2) in areas proposed as	<ul style="list-style-type: none"> An independent landscape report suggests that the sites could still be progressed in a way that gives effect to the New Zealand Coastal Policy Statement 	M

Outstanding Natural Features/Landscapes	<p>2010 (i.e. result in effects that are no more than minor). However, there are different professional views on this and likely strong community views.</p> <ul style="list-style-type: none"> The consultation process will allow for views to be canvassed and further expert opinion obtained 	
Iwi aquaculture settlement grievance	<p>[REDACTED]</p> <ul style="list-style-type: none"> MPI is also working closely with Te Tau Ihu on the relocation proposal. If farms are relocated there would be a settlement obligation top up of \$ [REDACTED] 	M
Māori cultural concerns about effects at relocation sites	<ul style="list-style-type: none"> There will be further consultation with Iwi authorities to ensure any cultural concerns are identified and assessed in determining which sites, if any, should proceed. 	M
[REDACTED]		L
Marlborough District Council opposition to central government intervention	<ul style="list-style-type: none"> MPI has met with the recently elected Council to brief them on the consultation proposal and confirmed their general support for the process. MPI has worked closely with MDC. Council staff support relocation provided the Ruakaka site is included in the proposal, because the area is of high landscape value. DOC have also identified Ruakaka as a priority to be relocated. <p>[REDACTED]</p> <ul style="list-style-type: none"> The bulk of the plan change costs will be borne by central government rather than council. 	L
Second generation plan	<ul style="list-style-type: none"> Whether MDC will notify MEP before King Salmon can apply for resource consents. MPI is working closely with MDC on this matter. 	L
Private benefit from public space	<ul style="list-style-type: none"> MDC is working on introducing a coastal occupation charge. King Salmon supports this initiative. 	L

Legal Risks

60. This will be the first time the ss360A-C regulation making-power under the RMA has been used. Therefore there will be questions about how the provisions are applied.

61. Regulations made under s360A cannot be appealed like a normal plan change could be, however the decision making process is subject to judicial review. Judicial review may occur in relation to the Minister's decisions to:
- a. Establish the process for consultation with the public and iwi authorities, and
 - b. Recommend regulations.

This paragraph contained a summary of legal advice provided by Crown Law and is redacted in accordance with the usual Crown practice to maintain legal professional privilege.

63. To reduce the chances of successful judicial review I have established a process that I consider gives the public and iwi authorities adequate time and opportunity to comment on the proposed regulations; and will ensure that any future decision to recommend regulations is based on robust information, takes into account consultation, and meets all the requirements of s 360A and s 360B.

Agency and stakeholder engagement

64. Engagement with the Marlborough Salmon Working Group and iwi authorities has been described above. Marlborough District Council are generally supportive of the proposed process and the use of an independent panel.
65. DOC, MfE, the Treasury, Department of Internal Affairs, Te Puni Kokiri, Office of Treaty Settlements and Ministry of Business Innovation and Employment were consulted on this paper and their comments incorporated or are set out below. The Department of Prime Minister and Cabinet has been informed.

Financial Implications

66. It is estimated that the cost of consultation and regulation making will be no more than \$750,000 [judicial review costs could be up to an additional \$250,000]. This amount will be met from MPI baselines.
67. Top-up of the existing iwi cash settlement is estimated to cost up to \$ [REDACTED] which would fall within the existing Settlements budget. This obligation would be incurred whether relocation is effect through regulations or a normal plan change.

Legislative Implications

68. It is intended to implement this proposal by making regulations under s360A-C of the Resource Management Act. As noted above I intend to carry out consultation and evaluation, with the aim having sufficient information to consider whether I should recommend regulations by July 2017. If I do decide to proceed, I will report back to Cabinet (EGI) with a final proposal for regulations.

Regulatory Impact Analysis

69. A Regulatory Impact Analysis has been prepared by MPI and reviewed by the Regulatory Impact Analysis Team at Treasury.
70. The Regulatory Impact Analysis Team at the Treasury (RIAT) has reviewed the Regulatory Impact Statement produced by the Ministry for Primary Industries. The reviewers consider that the information and analysis summarised in the RIS **meets** the QA criteria.

Recommendations

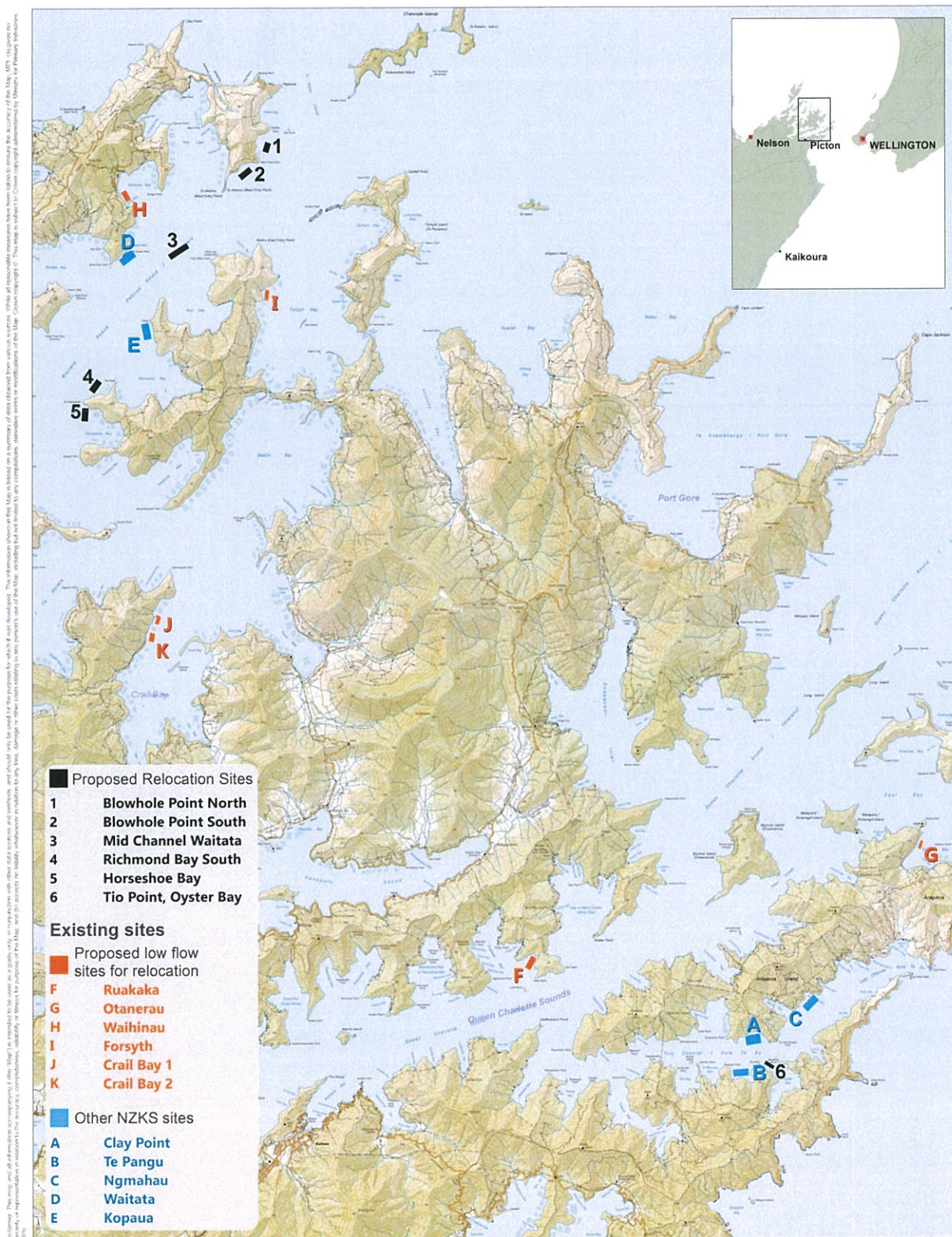
71. The Minister for Primary Industries recommends that the committee:

1. **Confirm** the Government's policy for aquaculture as noted in [27] of this paper
2. **Note** that six out of 11 consented salmon farm sites are at lower flow sites where implementation of Benthic Best Management Practice Guidelines is expected to decrease salmon production
3. **Note** that relocating consented salmon farm sites from lower flow to higher flow more sustainable sites would be an effective way to reduce adverse effects on the benthic environment without decreasing production, and with the potential to increase production
4. **Note** that officials from MPI, and DOC have worked with Marlborough District Council and the Marlborough Salmon Working Group to identify a limited number of potential relocation sites
5. **Note** that I intend to consult on proposed regulations under ss360A-C of the Resource Management Act to amend the Marlborough Sounds Resource Management Plan to enable relocation of the up to six salmon farms
6. **Note** that I have determined a process that I consider gives the public and iwi authorities adequate time and opportunity to comment on the proposed regulations and requires the preparation of a report on the comments received and a recommendation on the proposed regulation;
7. **Note** that as part of this process an independent panel of resource management experts will conduct hearings and provide a report and recommendations to help inform my decision
8. **Agree** that the attached consultation document, including proposed regulations to change the Marlborough Sounds Resource Management Plan, be used to inform the consultation process
9. **Agree** that any updates required to the consultation document and proposed regulations, based on further technical work and peer review, will be approved by the Minister for Primary Industries
10. **Agree** to release this Cabinet paper and the Regulatory Impact Statement prepared on the proposal into the public domain [subject to redactions] as part of the consultation package
11. **Note** that I will report back to Marine Ministers and consult specifically on the outcomes of consultation and evaluation prior to making any recommendation for regulations.

Authorised for lodgement

Hon Nathan Guy
Minister for Primary Industries

Appendix 1: Map of existing salmon farms and proposed relocation sites in the Marlborough Sounds



Ministry for Primary Industries
Manatū Ahu Matua



Data Attribution:
This map uses data sourced
from LINZ under CC-BY



0 1.25 2.5
nm

0 2.5 5
km

1:90,000
Map Coordinate System: NZTM

Existing and Potential Relocation Sites Marlborough Sounds

Date: 30/11/2016
Produced by: Spatial Analysis Solutions
Ref: r160467

Appendix 2: Map of existing salmon farms and proposed relocation sites in Pelorus Sound:



Ministry for Primary Industries
Manatū Ahu Matua



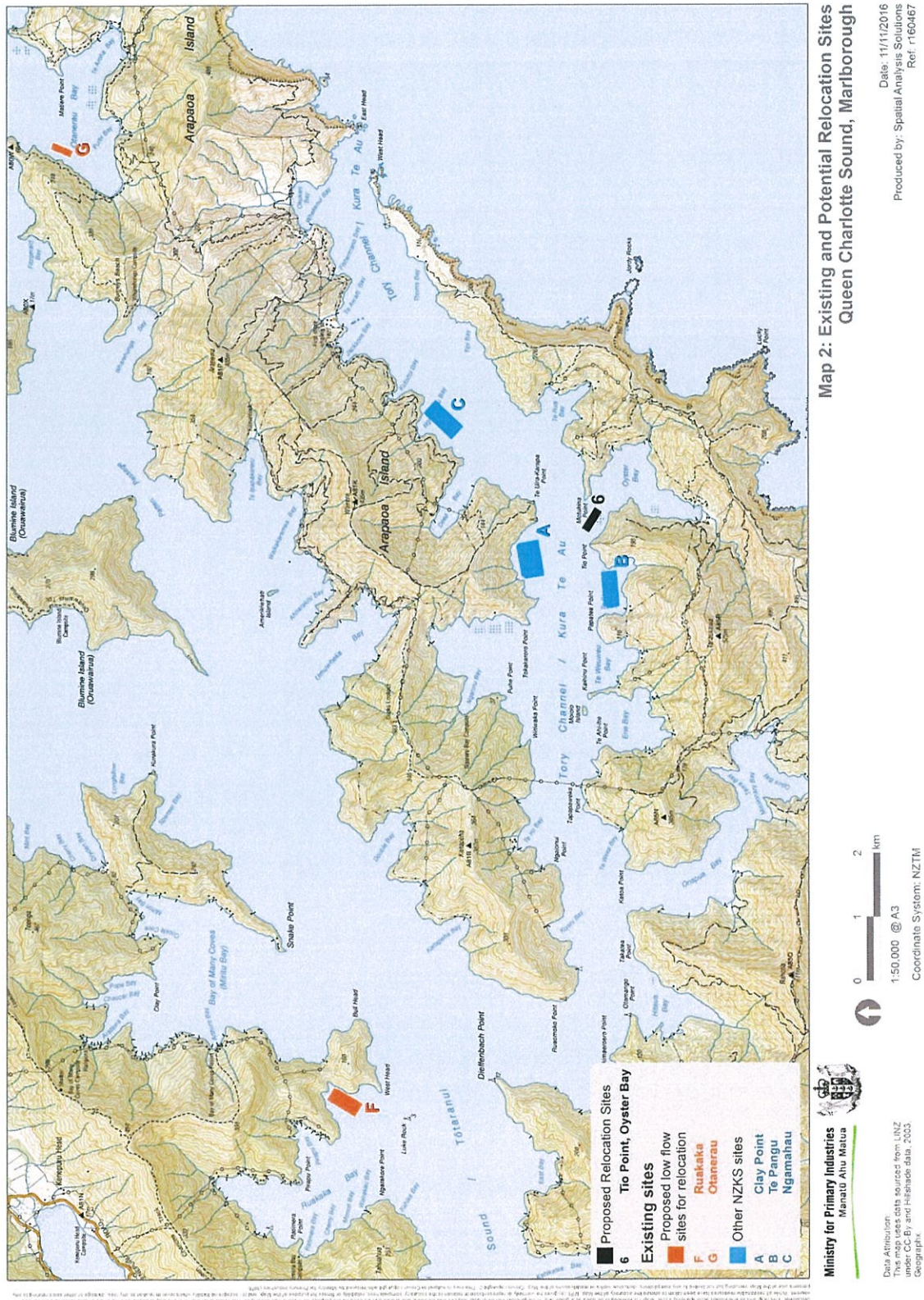
Data Attribution:
This map uses data sourced from LINZ
under CC-BY and Hatched data, 2003.
Geography

0 1 2
km
1:55,000 @ A3
Coordinate System: NZTM

Map 1: Existing and Potential Relocation Sites
Pelorus Sound, Marlborough

Date: 11/11/2016
Produced by: Spatial Analysis Solutions
Ref: r160467

Appendix 3. Map of existing salmon farms and proposed relocation sites in Queen Charlotte Sound:



Appendix 4. Images showing different salmon farm structures



Traditional steel pen structures as used at some of King Salmon's existing sites and that would be used at Richmond Bay South, Horseshoe Bay and Tio Point.



Circular pen structure that would be used at the Mid-Waitata Reach, Blowhole Point North and Blowhole Point South sites. There would be multiple of these structures at each of these sites.

Appendix 5. Additional details on plan change

The regulations would amend the Marlborough Sounds Resource Management Plan to:

- a. Allow applications for resource consent to farm salmon at specific relocation sites currently within the prohibited zone. The effects of salmon farming in these areas has been assessed by a variety of experts. Weighing these assessments with public feedback will allow an informed decision whether rezoning the areas to allow aquaculture is appropriate.
- b. Require that salmon farming on the relocation sites would be a restricted discretionary activity provided that detailed standards and requirements are met, including requirements to meet the Benthic Guidelines. These standards and requirements are designed to manage the general effects of salmon farming. The proposal draws on 2013 Board of Inquiry decision on applications for resource consents for salmon farming in the Marlborough Sounds and their refinement by the MDC in subsequent consent decisions.
- c. Provide a rules framework to ensure relocation will not increase the overall surface area of salmon farms, [i.e. limited to the 9 hectares currently consented]. This will be achieved by including a rule that an applicant must hold a consent for an existing site. Farms being relocated would have to be removed before locating a farm at one of the relocation sites. Rules would ensure that aquaculture at the surrendered sites would become prohibited.
- d. Preclude public notification but allow MDC discretion to give limited notification to any affected person if written approval of the person cannot be obtained.
- e. The plan change would also implement staged adaptive management of any relocated sites. Development of water quality standards would begin in 201X to inform adaptive management.

Appendix 6. Details of evaluation requirements for making regulations

1. If, following consultation with the public and iwi authorities and further evaluation I decide to proceed, I would recommend making of regulations under s 360A of the Resource Management Act to amend the Marlborough Sounds Resource Management Plan to provide for relocating up to 6 of the existing consented salmon farm sites.
2. Sections 360A-C of the Resource Management Act enable me to recommend regulations that amend regional coastal plans in relation to aquaculture. They provide a streamlined alternative to a plan change under Schedule 1 of the Resource Management Act. Using this process, a plan change to enable relocation could be achieved within 10 months from initiating statutory consultation with the public and iwi authorities. However, King Salmon would still need to apply for resource consents, which is expected to take an additional 5 months.
3. Section 360B(2)(c)(i) requires that I am satisfied the proposed regulations are necessary or desirable for the management of aquaculture activities in accordance with the Government's policy for aquaculture in the coastal marine area.
4. I have considered the provisions of the Marlborough Sounds Resource Management Plan and am satisfied, in principle, that it cannot effectively deliver the Government's policy for aquaculture in relation to management of salmon farming activities in Marlborough. At the existing sites, improving productivity and reducing environmental impact cannot be achieved together. Improving productivity would lead to unacceptable benthic effects, and reducing benthic effects would limit productivity. The existing coastal plan does not provide for relocation to sites where both outcomes can be achieved together.
5. Specific consultation and evaluation requirements must be met prior to recommending regulations. I cannot make a decision to recommend regulations until I have considered the views of the public and iwi authorities. However, initial assessments of particular regulatory requirements have been made and are detailed below.

6. I am satisfied that, in principle:
 - a. The proposal is in accordance with the purpose of the Resource Management Act 1991, which is to promote the sustainable management of natural and physical resources, and that the principles in Part 2 of the Act, where applicable, will be addressed
 - b. The matters addressed are of regional and, possibly national, significance (s 360B(2)(c)(ii)). The environmental improvements to the seabed beneath salmon farms are of regional significance. The economic benefits, which include potentially doubling the production of salmon from the same amount of space, may be of national significance. The Minister of Conservation considered the 2011 King Salmon application for new sites of national significance and referred it to a Board of Inquiry.
 - c. The Marlborough Sounds Resource Management Plan will continue to give effect to the New Zealand Coastal Policy Statement and the Marlborough Regional Policy Statement [s 360B(c)(iii)(B) and (C)].
7. Note that consideration of whether amending the coastal plan will continue to give effect to national policy statements (s360B(2)(c)(iii)(A)) or would be in conflict with any national environmental standards (s360B(2)(c)(iv)), or are inconsistent with and subject to other provisions of the RMA (s360A(2)(b)) will be carried out after the consultation process and section 32 analysis.
8. Consultation is required with the public, iwi authorities, Marlborough District Council, the Minister of Conservation and other Ministers that I consider relevant. I have consulted the BGA Marine Ministers.